

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

IN RE:)
)
JAMES EARL CHERRY,) CASE NO. 07-20828 JPK
) Chapter 7
Debtor.)

AMENDED ORDER RE-OPENING CASE

This Chapter 7 case was dismissed by an Order of Dismissal entered on August 2, 2007. On August 21, 2007, the United States Trustee filed a motion to re-open the case, which was granted by an order entered on August 22, 2007. The order re-opening the case did not provide for the appointment of a Chapter 7 Trustee with respect to the re-opened case. On August 24, 2007, the United States Trustee filed a Motion for Sanctions Pursuant to 11 U.S.C. § 707(b)(4) and FED. R. BK. P. 9011, together with a form of "drop dead" notice regarding that motion in the form provided for by N.D.Ind.L.B.R. B-2002-2. On September 19, 2007, Nuvell Credit Company, LLC filed a Motion for Relief From the Stay and for Order of Abandonment, together with the form of notice provided for by N.D.Ind.L.B.R. B-2002-2(a)(4). The problematic part of this motion is that there is no Chapter 7 Trustee in the re-opened case.

The foregoing circumstances require some sorting out.

First, the utilization of a form of "drop dead" notice with respect to the United States Trustee's motion for sanctions filed on August 24, 2007 is not authorized by applicable local rules, and that notice is ineffective for any purpose.

Secondly, the sole reason for re-opening the case is to determine the foregoing motion filed by the United States Trustee. The Court determines that the order by which the case was re-opened should be amended to reflect re-opening of the case only for this limited purpose. As a result, the effect of dismissal of the case and closing of the case on the continuation of the automatic stay will be that stated in 11 U.S.C. § 362(c), i.e., any actions sought to be undertaken

by Nuvelt Credit Company LLC with respect to indebtedness owed to it by the debtor and any collateral securing that indebtedness will not be stayed.

IT IS ORDERED that the notice filed as docket record entry #30 on August 24, 2007 by the United States Trustee shall have no effect in this case.

IT IS FURTHER ORDERED that the order entered on August 22, 2007 re-opening the case is vacated, and the following is substituted in its place as the order of re-opening of the case as of August 22, 2007:

IT IS ORDERED that this case is re-opened for the sole purpose of determination of the United States Trustee's Motion for Sanctions Pursuant to 11 U.S.C. § 707(b)(4) and FED. R. BK. P. 9011, and for no other purpose. The re-opening of the case does not reinstate the automatic stay of 11 U.S.C. § 362(a) in any manner, and any actions which might otherwise be affected by 11 U.S.C. § 362(a) are not so affected by that statute with respect to the debtor or any property of the debtor or any property which previously constituted property of the debtor's bankruptcy estate in this case.

IT IS FURTHER ORDERED that the order entered on September 19, 2007 as record entry #35 will be vacated by separate order.

IT IS FURTHER ORDERED that because the motion filed by Nuvelt Credit Company LLC on September 19, 2007 is unnecessary, the Clerk will take appropriate action to refund the filing fee for that motion to said creditor.

IT IS FURTHER ORDERED that a pre-hearing conference will be held on the United States Trustee's motion for sanctions on **October 18, 2007, at 9:45 A.M.**

Dated at Hammond, Indiana on October 2, 2007.

/s/ J. Philip Klingeberger
J. Philip Klingeberger, Judge
United States Bankruptcy Court

Distribution:
Debtor, Attorney for Debtor, Trustee, US Trustee